



STATUTES AMENDMENT (FINANCIAL INSTITUTIONS) ACT 1999

No. 41 of 1999

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A.D. 1999

No. 41 of 1999

An Act to amend the Debits Tax Act 1994, the Financial Institutions Duty Act 1983 and the Stamp Duties Act 1923.

[Assented to 5 August 1999]

The Parliament of South Australia enacts as follows:

PART 1 PRELIMINARY

Short title

1. This Act may be cited as the *Statutes Amendment (Financial Institutions) Act 1999*.

Commencement

2. This Act will be taken to have come into operation on 1 December 1998.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2 AMENDMENT OF DEBITS TAX ACT 1994

Amendment of s. 3—Definitions

4. Section 3 of the principal Act is amended—

- (a) by striking out "bank" wherever occurring in paragraph (a) of the definition of "account" in subsection (1) and substituting, in each case, "financial institution";
- (b) by striking out paragraph (b) of the definition of "account" in subsection (1);
- (c) by striking out paragraph (b) of the definition of "account transaction" in subsection (1);
- (d) by striking out the definition of "bank" from subsection (1);

- (e) by striking out the definition of "**cheque**" from subsection (1) and substituting the following definition:

"cheque" has the same meaning as in the *Cheques Act 1986* of the Commonwealth;;

- (f) by striking out "or payment order" thrice occurring from subparagraph (ii) of paragraph (b) of the definition of "**excluded debit**" in subsection (1);

- (g) by striking out paragraph (a) of the definition of "**exempt debit**" in subsection (1) and substituting the following paragraph:

(a) that is—

(i) made in error or to correct an error; or

(ii) required because of the dishonouring or stopping of a cheque;;

- (h) by striking out the definition of "**financial institution**" from subsection (1) and substituting the following definition:

"financial institution" has the same meaning as in the *Cheques Act 1986* of the Commonwealth;;

- (i) by striking out "or payment order" thrice occurring from the definition of "**incomplete**" in subsection (1);

- (j) by striking out the definition of "**non-bank financial institution**" from subsection (1);

- (k) by striking out the definition of "**payment order**" from subsection (1);

- (l) by striking out "non-bank" from subsection (9).

Amendment of s. 8—Imposition of tax

5. Section 8 of the principal Act is amended

- (a) by striking out "**non-bank account**" from subsection (2) and substituting "**customer's account**";

- (b) by striking out "bank" from paragraph (a) of subsection (2) and substituting "financial institution";

- (c) by striking out "non-bank account" twice occurring from paragraph (b) of subsection (2) and substituting, in each case, "customer's account";

- (d) by striking out "bank" second, third and fourth occurring in paragraph (b) of subsection (2) and substituting, in each case, "financial institution".

PART 3
AMENDMENT OF FINANCIAL INSTITUTIONS DUTY ACT 1983

Amendment of s. 3—Interpretation

6. Section 3 of the principal Act is amended—

- (a) by inserting in subsection (1) before the definition of "**approved government instrumentality**" the following definition:

"ADI" means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth;;

- (b) by striking out from subsection (1) the definition of "**bank**";

- (c) by striking out from subsection (1) paragraph (a) of the definition of "**financial institution**" and substituting the following paragraph:

(a) an ADI; or;

- (d) by inserting in the definition of "**financial institution**" in subsection (1) "the Reserve Bank of Australia or" after "include";

- (e) by striking out from the definition of "**short-term dealing account**" in subsection (1) "a bank" and substituting "an ADI";

- (f) by striking out from the definition of "**special account**" in subsection (1) "a bank" and substituting "an ADI";

- (g) by striking out from the definition of "**sweeping account**" in subsection (1) "a bank" and substituting "an ADI".

Amendment of s. 7—Definition of dutiable and non-dutiable receipts

7. Section 7 of the principal Act is amended—

- (a) by striking out paragraphs (d), (e) and (f) of subsection (2) and substituting the following paragraph:

(d) a receipt of money by a registered financial institution from another registered financial institution in the normal course of clearing procedures between financial institutions;;

- (b) by striking out from subsection (2)(g) "a bank" and substituting "an ADI";

- (c) by inserting the following paragraph after paragraph (m) in subsection (2):

(ma) a receipt of money by a financial institution solely by reason of the making of an entry in an account kept by the financial institution in respect of money paid into the account by means of a cheque that is subsequently dishonoured or stopped;;

- (d) by striking out from subsection (2)(q) "a registered financial institution (being a bank, building society or credit union)" and substituting "an ADI that is a registered financial institution";

(e) by inserting the following subsection after subsection (6):

(7) Credit Union Services Corporation (Australia) Limited will be taken for the purposes of subsection (2)(d) to be a registered financial institution.

Amendment of s. 8—Short-term dealings

8. Section 8 of the principal Act is amended—

- (a) by striking out from subsection (1)(a) "a bank" and substituting "an ADI";
- (b) by striking out from subsection (3)(b) "a bank" and substituting "an ADI";
- (c) by striking out from subsection (3)(b)(i) "the bank" and substituting "the ADI".

Amendment of s. 31—Special ADI accounts of non-ADI financial institutions

9. Section 31 of the principal Act is amended—

- (a) by striking out from subsection (1) "non-bank financial institution" twice occurring and substituting in each case "non-ADI financial institution";
- (b) by striking out from subsection (1) "a bank" and substituting "an ADI";
- (c) by striking out from subsection (2) "A bank" and "the bank or another bank" and substituting respectively "An ADI" and "the ADI or another ADI";
- (d) by striking out from subsection (4) "a bank" and "the bank" and substituting respectively "an ADI" and "the ADI";
- (e) by striking out from subsection (5) "a bank" twice occurring and substituting in each case "an ADI";
- (f) by striking out from subsection (6) "a bank" twice occurring and substituting in each case "an ADI";
- (g) by striking out from subsection (7) "a bank" and substituting "an ADI";
- (h) by striking out from subsection (8) "a bank" and substituting "an ADI";
- (i) by striking out from subsection (9) "a bank" and substituting "an ADI";
- (j) by striking out from subsection (11) "non-bank" and "a bank" and substituting respectively "non-ADI" and "an ADI".

Amendment of s. 32—Short-term dealing account of registered short-term money market operator

10. Section 32 of the principal Act is amended—

- (a) by striking out from subsection (1) "a bank" and substituting "an ADI";
- (b) by striking out from subsection (3) "a bank" and "the bank" and substituting respectively "an ADI" and "the ADI";

- (c) by striking out from subsection (4) "a bank" and "that bank or by another bank" substituting respectively "an ADI" and "that ADI or by another ADI";
- (d) by striking out from subsection (6)(c) "bank" and substituting "ADI".

Amendment of s. 33—Sweeping accounts

11. Section 33 of the principal Act is amended—

- (a) by striking out from subsection (1) "a bank" and substituting "an ADI";
- (b) by striking out from subsection (4) "bank" twice occurring and substituting in each case "ADI";
- (c) by striking out from subsection (5) "a bank" and "the same bank" and substituting respectively "an ADI" and "the same ADI";
- (d) by striking out from subsection (7)(a) "bank" and substituting "ADI".

Amendment of s. 34—Other special accounts

12. Section 34 of the principal Act is amended by striking out from subsection (1) "a registered financial institution (being a bank, building society or credit union)" and substituting "an ADI that is a registered financial institution".

Amendment of s. 35—Government Department account

13. Section 35 of the principal Act is amended by striking out from subsection (1) "a bank, building society or credit union" and substituting "an ADI".

Amendment of s. 63—Applications by financial institutions to pay receipts to the credit of non-exempt ADI accounts

14. Section 63 of the principal Act is amended—

- (a) by striking out from subsection (1) "a bank" and substituting "an ADI";
- (b) by striking out from subsection (2) "a bank" and substituting "an ADI";
- (c) by striking out from subsection (4) "non-exempt bank account" and substituting "non-exempt ADI account".

Insertion of Schedule

15. The following Schedule is inserted after section 77 of the principal Act:

SCHEDULE 1*Transitional Provisions***Commencement of consequential regulations**

1. Regulations under this Act that are consequential on the amendments made to this Act by the *Statutes Amendment (Financial Institutions) Act 1999* or are consequential on the *Cheques and Payment Orders Amendment Act 1998* of the Commonwealth may come into operation on 1 December 1998 or on any subsequent day occurring before the regulations were made.

PART 4
AMENDMENT OF STAMP DUTIES ACT 1923

Amendment of s. 2—Interpretation

16. Section 2 of the principal Act is amended by striking out the definition of "savings bank".

Amendment of s. 7—Distribution of stamps, commission, etc.

17. Section 7 of the principal Act is amended by striking out "bank" from subsection (3) and substituting "financial institution".

Amendment of s. 43—Interpretation

18. Section 43 of the principal Act is amended—

- (a) by striking out the definition of "bank";
- (b) by striking out paragraph (a) of the definition of "cheque" and substituting the following paragraph:
 - (a) a cheque for the purposes of the *Cheques Act 1986* of the Commonwealth;;
- (c) by striking out the definition of "Cheques and Payment Orders Act 1986" and substituting the following definition:

"financial institution" has the same meaning as in the *Cheques Act 1986* of the Commonwealth;;
- (d) by striking out "a bank account held" from the definition of "unstamped cheque" and substituting "an account held with a financial institution".

Amendment of s. 44—Duty on cheques and cheque forms

19. Section 44 of the principal Act is amended—

- (a) by striking out "bank" firstly and fourthly occurring in subsection (1) and substituting, in each case, "financial institution";
- (b) by striking out subparagraph (i) of paragraph (a) of subsection (1) and substituting the following subparagraph:
 - (i) all cheque forms issued during the preceding month by the financial institution to be used in drawing on accounts held by the financial institution in South Australia;;
- (c) by striking out "bank" wherever occurring in subsections (2) and (3) and substituting, in each case, "financial institution";
- (d) by striking out "banks" from subsection (4) and substituting "financial institutions";
- (e) by striking out "bank in respect of a bank account held" from subsection (5) and substituting "financial institution in respect of an account held with the financial institution".

Amendment of s. 45—Duty not to be chargeable after certain date

20. Section 45 of the principal Act is amended by striking out "bank" twice occurring and substituting, in each case, "financial institution".

Amendment of s. 46—Power to make regulations

21. Section 46 of the principal Act is amended by striking out "banks" and substituting "financial institutions".

Insertion of Schedule

22. The following Schedule is inserted after section 114 of the principal Act:

SCHEDULE 1*Transitional Provisions***Commencement of consequential regulations**

1. Regulations under this Act that are consequential on the amendments made to this Act by the *Statutes Amendment (Financial Institutions) Act 1999* or are consequential on the *Cheques and Payment Orders Amendment Act 1998* of the Commonwealth may come into operation on 1 December 1998 or on any subsequent day occurring before the regulations were made.

Amendment of Schedule 2

23. Schedule 2 of the principal Act is amended—

- (a) by striking out "registered" from clause 2 of the Exemptions under the heading commencing "ANNUAL LICENCE APPLICATION or MONTHLY RETURN";
- (b) by striking out the heading "RETURN lodged with the Commissioner by a bank under section 44—" and substituting the heading "RETURN lodged with the Commissioner by a financial institution under section 44";
- (c) by striking out "bank in respect of a bank account held" in clause 1 of the Exemptions under the heading referred to in paragraph (b) and substituting "financial institution in respect of an account held with the financial institution";
- (d) by striking out from clause 1(d) of the Exemptions referred to in paragraph (c) "registered";
- (e) by striking out "a bank account held" from clause 2 of the Exemptions referred to in paragraph (c) and substituting "an account held with a financial institution";
- (f) by striking out "bank" twice occurring from clause 3 of the Exemptions referred to in paragraph (c) and substituting, in each case, "financial institution";
- (g) by striking out "banks" from clause 3 of the Exemptions referred to in paragraph (c) and substituting "financial institutions".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor